

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jenzo Duque	Team: Squad #8	CCRB Case #: 201808642	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/04/2017 11:30 PM	Location of Incident: [REDACTED]	Precinct: 60	18 Mo. SOL 1/4/2019	EO SOL 1/4/2019	
Date/Time CV Reported Wed, 10/17/2018 11:23 PM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 10/17/2018 11:23 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Fitzroy Vigilance	04583	918667	071 PCT
2. POM Robbie Boodoo	17247	960266	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Fitzroy Vigilance	Abuse: Sergeant Fitzroy Vigilance threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT Fitzroy Vigilance	Abuse: Sergeant Fitzroy Vigilance searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	[REDACTED]
C.SGT Fitzroy Vigilance	Force: Sergeant Fitzroy Vigilance used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.SGT Fitzroy Vigilance	Force: Sergeant Fitzroy Vigilance used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.SGT Fitzroy Vigilance	Force: Sergeant Fitzroy Vigilance tightly handcuffed § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Robbie Boodoo	Abuse: Police Officer Robbie Boodoo threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the On-line Processing System on October 17, 2018.

On July 4, 2017, at approximately 11:30 p.m., at the § 87(2)(b) in Brooklyn, § 87(2)(b) his wife, § 87(2)(b) and their children, § 87(2)(b) and § 87(2)(b) encountered a police road block when driving to their residence. § 87(2)(b) began turning his vehicle onto Neptune Avenue, when he asked Sergeant Fitzroy Vigilance of the 71st Precinct for assistance in driving through the intersection. Sgt. Vigilance told § 87(2)(b) to complete the turn onto Neptune Avenue or he would arrest him (**Allegation A: Abuse of Authority – § 87(2)(g)**). Sgt. Vigilance then allegedly approached § 87(2)(b)'s vehicle, reached in through the driver's window, and opened the door (**Allegation B: Abuse of Authority – § 87(2)(g)**). Sgt. Vigilance then grabbed § 87(2)(b) and pulled him out of the vehicle (**Allegation C: Force – § 87(2)(g)**). Upon exiting the vehicle, § 87(2)(b) placed his hands behind his back and Sgt. Vigilance allegedly grabbed his hands and pulled them upward (**Allegation D: Force – § 87(2)(g)**). Sgt. Vigilance then handcuffed § 87(2)(b) escorted him to a police vehicle and placed § 87(2)(b) inside it. After an unknown amount of time, Sgt. Vigilance then allegedly opened the rear passenger door of the police vehicle, leaned inside it, and tightened § 87(2)(b)'s handcuffs (**Allegation E: Force – § 87(2)(g)**). § 87(2)(b) remained inside the police vehicle for an unknown amount of time, and struck his head against the passenger window to lose consciousness. Police Officer Robbie Boodoo of the 71st Precinct then allegedly opened the passenger door and stated, "Stop or I'll make you stop," to § 87(2)(b) (**Allegation F: Abuse of Authority – § 87(2)(g)**).

There was no video footage available for this incident. § 87(2)(b) was issued a summons as a result of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Fitzroy Vigilance threatened to arrest § 87(2)(b)

It is undisputed that upon observing § 87(2)(b)'s stopped vehicle in the intersection, Sgt. Vigilance threatened to arrest § 87(2)(b).

According to § 87(2)(b)'s sworn statement (Board Review 01), § 87(2)(b) drove southbound and in the left-most lane on Stillwell Avenue when he encountered a police blockade. Traffic conditions were heavy and § 87(2)(b) observed Sgt. Vigilance directing traffic either through the intersection or to make a right turn onto Neptune Avenue. § 87(2)(b) began turning right onto Neptune Avenue and stopped in the middle of the intersection to ask Sgt. Vigilance for assistance through the intersection. Sgt. Vigilance then approached § 87(2)(b)'s vehicle and told him to move it or he would arrest him. § 87(2)(b) denied blocking vehicular traffic.

§ 87(2)(b) provided a mostly consistent phone statement with § 87(2)(b) (Board Review 02). § 87(2)(b) began to make the right turn onto Neptune Avenue, and both she and § 87(2)(b) asked Sgt. Vigilance for assistance. Sgt. Vigilance walked in the direction of the vehicle and told § 87(2)(b) to turn right. § 87(2)(b) could not specify how many

times Sgt. Vigilance told § 87(2)(b) to turn right. Sgt. Vigilance then approached the vehicle and told § 87(2)(b) if he did not make the right turn, he would arrest him.

§ 87(2)(b) provided a mostly consistent phone statement with § 87(2)(b) (Board Review 03). Sgt. Vigilance did not respond to § 87(2)(b)'s request for assistance. § 87(2)(b) asked Sgt. Vigilance for assistance once more and Sgt. Vigilance approached the vehicle. Sgt. Vigilance then stated that if § 87(2)(b) did not move the vehicle, he would arrest him.

§ 87(2)(b) provided a mostly consistent phone statement with § 87(2)(b) (Board Review 04). After § 87(2)(b) asked Sgt. Vigilance for assistance, Sgt. Vigilance gestured that § 87(2)(b) should turn right onto Neptune Avenue and stated he could not help him. Sgt. Vigilance then raised his voice and stated if § 87(2)(b) did not complete the right turn, he would arrest him.

In Sgt. Vigilance's statement to the CCRB (Board Review 05), Sgt. Vigilance was blocking traffic due to a fireworks display. Traffic conditions were heavy, as hundreds of pedestrians and vehicles moved in the immediate vicinity. Sgt. Vigilance had his back turned when § 87(2)(b) drove into the intersection, but then noticed the stopped vehicle because § 87(2)(b) was screaming and acting erratic. Sgt. Vigilance estimated that § 87(2)(b)'s vehicle had been stopped for approximately one minute before he noticed it. § 87(2)(b) was blocking vehicular traffic and Sgt. Vigilance observed approximately 30 pedestrians, including motorists who had exited their vehicles, stop to observe what § 87(2)(b) was doing. Sgt. Vigilance approached § 87(2)(b) with other officers, but he did not recall which officers approached with him. § 87(2)(b) stated that he had to continue straight through the intersection to arrive at his residence and that he would not complete the right turn. Sgt. Vigilance commanded § 87(2)(b) to complete the right turn more than five times and § 87(2)(b) refused to comply. Sgt. Vigilance then told § 87(2)(b) he had to complete the right turn or he would be subject to arrest.

In PO Boodoo's statement to the CCRB (Board Review 06), PO Boodoo did not recall if any pedestrians stopped to observe § 87(2)(b)'s stopped vehicle in the intersection. PO Boodoo could not hear the conversation between the officers and § 87(2)(b) as he stood approximately 20 to 30 feet away. However, upon further questioning, PO Boodoo clarified that he heard Sgt. Vigilance commanding § 87(2)(b) to move his vehicle once both Sgt. Vigilance and § 87(2)(b) raised their voices. When asked how many times Sgt. Vigilance commanded § 87(2)(b) to move his vehicle, PO Boodoo stated more than once but could not specify.

N.Y. Veh. & Traf. Law § 1202 (Consol.) (Board Review 07), states, "Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall stop, stand or park a vehicle...within an intersection, except when permitted by official signs or parking meters on the side of a highway opposite a street which intersects but does not cross such highway."

N.Y. Penal Law § 240.20 (Consol.) subsection 5 (Board Review 08), states, "A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof...He obstructs vehicular or pedestrian traffic."

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Sergeant Fitzroy Vigilance searched the vehicle in which § 87(2)(b) was an occupant.

Whether Sgt. Vigilance entered § 87(2)(b)'s vehicle after stating he would arrest § 87(2)(b) remains in dispute.

According to § 87(2)(b)'s sworn statement (Board Review 01), § 87(2)(b) asked Sgt. § 87(2)(b) why he would arrest him. Sgt. Vigilance then attempted to open § 87(2)(b)'s door, but could not do so because it was locked. Sgt. Vigilance reached into the vehicle and opened the door from inside. Sgt. Vigilance then told § 87(2)(b) to exit the vehicle. Sgt. Vigilance did not command § 87(2)(b) to exit the vehicle prior to attempting to open the door.

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 02).

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 03).

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 04).

In Sgt. Vigilance's statement to the CCRB (Board Review 05), when § 87(2)(b) refused to complete the right turn after issuing him commands to do so, Sgt. Vigilance determined § 87(2)(b) was under arrest. Sgt. Vigilance told § 87(2)(b) he was under arrest, commanded that he place the vehicle in park, and commanded him to exit the vehicle. § 87(2)(b) placed the vehicle in park, but did not exit the vehicle. Sgt. Vigilance then opened the driver's door of the vehicle, which was not locked. Sgt. Vigilance did not recall reaching into the open window of § 87(2)(b)'s vehicle and opening the door.

In PO Boodoo's statement to the CCRB (Board Review 06), PO Boodoo did not recall if Sgt. Vigilance commanded § 87(2)(b) to exit the vehicle. PO Boodoo observed the driver's door of the vehicle open and Sgt. Vigilance placing § 87(2)(b) under arrest. PO Boodoo did not recall how the vehicle door was opened. PO Boodoo's attention was divided between the incident and directing traffic from his foot post. When PO Boodoo arrived at the vehicle, the driver's door had already been opened. PO Boodoo did not know if Sgt. Vigilance reached into the open window of § 87(2)(b)'s vehicle and opened the door.

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: Sergeant Fitzroy Vigilance used physical force against § 87(2)(b)

It is undisputed that after opening § 87(2)(b)'s door and commanding him to exit the vehicle, Sgt. Vigilance then grabbed § 87(2)(b) and pulled him out of his vehicle.

According to § 87(2)(b)'s sworn statement (Board Review 01), Sgt. Vigilance grabbed him on his left wrist and left shoulder area with both hands. Sgt. Vigilance began pulling § 87(2)(b) out into the street, but could not do so because § 87(2)(b) still had his seatbelt buckled. § 87(2)(b) removed his seatbelt while Sgt. Vigilance continued to pull him. § 87(2)(b) willingly exited the vehicle as soon as he was able to. § 87(2)(b) sustained bruising to his left shoulder and upper arm areas as a result of Sgt. Vigilance grabbing and pulling him. When asked how much time passed between when Sgt. Vigilance first approached his vehicle and when § 87(2)(b) had been removed from it, § 87(2)(b) stated within seconds.

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 02).

According to § 87(2)(b)'s telephone statement (Board Review 03), § 87(2)(b) could not see where Sgt. Vigilance grabbed and pulled § 87(2)(b) from her vantage point in the vehicle.

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 04).

In Sgt. Vigilance's statement to the CCRB (Board Review 05), Sgt. Vigilance grabbed § 87(2)(b) by the left arm-shoulder area with either one hand or both. § 87(2)(b) complied with Sgt. Vigilance removing him from the vehicle. Sgt. Vigilance did not forcefully pull § 87(2)(b) from the vehicle. Sgt. Vigilance estimated that several minutes passed between when he approached § 87(2)(b)'s vehicle and when § 87(2)(b) was removed from it.

In PO Boodoo's statement to the CCRB (Board Review 06), when PO Boodoo arrived at § 87(2)(b)'s vehicle, the driver's door had already been opened. PO Boodoo could not see what happened during § 87(2)(b)'s apprehension, because Sgt. Vigilance and the other officers who first approached § 87(2)(b)'s vehicle obstructed his view. PO Boodoo did not know if Sgt. Vigilance pulled § 87(2)(b) out of the vehicle.

Patrol Guide Procedure 221-01 regarding Force Guidelines (Board Review 09), states, "Force may be used...when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances."

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: Sergeant Fitzroy Vigilance used physical force against § 87(2)(b)

Whether Sgt. Vigilance grabbed § 87(2)(b)'s hands and pulled them upward after removing him from his vehicle remains in dispute.

According to § 87(2)(b)'s sworn statement (Board Review 01), upon exiting his vehicle, § 87(2)(b) placed his hands behind his back. Sgt. Vigilance then grabbed § 87(2)(b)'s hands and pulled them upwards, causing him to lean forward and experience pain in his wrists, arms, and back. § 87(2)(b) told Sgt. Vigilance he did not have to be rough with him, as he was cooperating. Sgt. Vigilance then handcuffed § 87(2)(b). § 87(2)(b) denied trying to move his body in such a way that Sgt. Vigilance could not restrain him. § 87(2)(b) denied pushing back against Sgt. Vigilance. Sgt. Vigilance did not issue any commands to § 87(2)(b) prior to handcuffing him. § 87(2)(b) did not recall how long it took for Sgt. Vigilance to handcuff him.

§ 87(2)(b) provided a mostly consistent telephone statement with § 87(2)(b) (Board Review 02). § 87(2)(b) did not make physical contact with Sgt. Vigilance. § 87(2)(b) stated Sgt. Vigilance was hurting him and that he was not resisting. Sgt. Vigilance did not make any statements to § 87(2)(b) and he was the only officer who engaged with him physically. § 87(2)(b) did not see Sgt. Vigilance pull § 87(2)(b)'s hands up, but stated § 87(2)(b) told her Sgt. Vigilance had done so after the fact.

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 03).

§ 87(2)(b) provided a consistent telephone statement with § 87(2)(b) (Board Review 04).

In Sgt. Vigilance's statement to the CCRB (Board Review 05), once § 87(2)(b) exited his vehicle, he continued to yell and direct profanity at Sgt. Vigilance. § 87(2)(b) then placed his hands behind his back willingly. Sgt. Vigilance did not recall if any other officers were involved in § 87(2)(b)'s physical apprehension. Sgt. Vigilance did not recall § 87(2)(b) pulling his body away from him. Sgt. Vigilance did not recall § 87(2)(b) extending his limbs outward or away from Sgt. Vigilance. Sgt. Vigilance did not use force in the process of handcuffing § 87(2)(b). Sgt. Vigilance did not recall § 87(2)(b) stating the process of handcuffing him caused him pain. Sgt. Vigilance denied grabbing § 87(2)(b)'s hands and pulling them upward.

In PO Boodoo's statement to the CCRB (Board Review 06), PO Boodoo did not recall if he assisted in § 87(2)(b)'s apprehension. However, upon further questioning, PO Boodoo clarified that because Sgt. Vigilance and two other officers were involved in § 87(2)(b)'s apprehension, PO Boodoo did not believe his involvement would have been necessary. When asked if § 87(2)(b)'s hands were behind his back upon exiting the vehicle, PO Boodoo stated § 87(2)(b)'s hands were behind his back, but he did not know if force was used to get § 87(2)(b).

§ 87(2)(b)'s hands behind his back. PO Boodoo did not observe § 87(2)(b) physically resisting; however, upon further questioning PO Boodoo clarified that by the time he arrived at the vehicle, § 87(2)(b) had already been handcuffed. PO Boodoo could not speak to whether § 87(2)(b) physically resisted prior to his arrival at the vehicle. PO Boodoo was not aware of any physical force used in § 87(2)(b)'s apprehension.

§ 87(2)(g)

Allegation (E) Force: Sergeant Fitzroy Vigilance tightly handcuffed § 87(2)(b)

Whether Sgt. Vigilance tightened § 87(2)(b)'s handcuffs upon arresting him remains in dispute.

According to § 87(2)(b)'s sworn statement (Board Review 01), after Sgt. Vigilance placed him in handcuffs, Sgt. Vigilance escorted § 87(2)(b) to a police vehicle parked in the vicinity. § 87(2)(b) walked of his own free will, but Sgt. Vigilance continued to pull on his arms and move him towards the vehicle. Sgt. Vigilance placed § 87(2)(b) in the rear of the police vehicle, behind the driver's seat, and closed the door. After an unknown amount of time, Sgt. Vigilance opened the rear passenger door, leaned into the vehicle, and then tightened § 87(2)(b)'s handcuffs. § 87(2)(b) felt the handcuffs tighten around his wrists, though he acknowledged he did not hear the handcuffs tighten. § 87(2)(b) screamed in response to the handcuffs tightening, as he experienced severe pain in his wrists, and sustained marks to both wrists. Sgt. Vigilance then closed the passenger door and § 87(2)(b) remained in the police vehicle for an unknown amount of time.

§ 87(2)(b) acknowledged in her telephone statement that she did not witness the incident after Sgt. Vigilance escorted § 87(2)(b) away from his vehicle (Board Review 02).

§ 87(2)(b) acknowledged in her telephone statement that she did not witness the incident after Sgt. Vigilance escorted § 87(2)(b) away from his vehicle (Board Review 03).

§ 87(2)(b) acknowledged in her telephone statement that she did not witness the incident after Sgt. Vigilance escorted § 87(2)(b) away from his vehicle (Board Review 04).

In Sgt. Vigilance's statement to the CCRB (Board Review 05), after handcuffing § 87(2)(b), Sgt. Vigilance then escorted him to a police vehicle parked at the intersection. Sgt. Vigilance did not recall if other officers aided him in escorting § 87(2)(b) walked of his own free will, but Sgt. Vigilance guided him. However, upon further questioning, Sgt. Vigilance clarified that he held § 87(2)(b)'s handcuffs and his shoulder to prevent him from escaping police custody. Sgt. Vigilance did not recall where his hands were positioned on § 87(2)(b)'s body while escorting him. Sgt. Vigilance placed § 87(2)(b) in the rear of the police vehicle, though he did not recall where exactly. Sgt. Vigilance did not use force to place § 87(2)(b) inside the vehicle and § 87(2)(b) complied with being placed inside the vehicle. Sgt. Vigilance did not observe any injuries on § 87(2)(b) nor did § 87(2)(b) complain of any injuries to him. Sgt. Vigilance did not recall § 87(2)(b) stating the handcuffs caused him pain. Sgt. Vigilance denied tightening § 87(2)(b)'s handcuffs.

In PO Boodoo's statement to the CCRB (Board Review 06), after Sgt. Vigilance handcuffed § 87(2)(b) he and PO Boodoo escorted § 87(2)(b) to a police vehicle in the

vicinity. PO Boodoo held onto § 87(2)(b)'s hand while escorting him to the vehicle, but he did not recall which one. PO Boodoo did not recall how he and Sgt. Vigilance escorted § 87(2)(b) to the police vehicle. PO Boodoo had no verbal interaction with § 87(2)(b) but recalled § 87(2)(b) stated officers were hurting him to pedestrians in the vicinity. § 87(2)(b) did not request medical attention at any point in time. PO Boodoo did not recall if § 87(2)(b) complained about the tightness of his handcuffs. PO Boodoo and Sgt. Vigilance placed § 87(2)(b) into the rear passenger seat, behind the driver's seat, of the police vehicle. PO Boodoo did not recall if any force was used in placing § 87(2)(b) inside the police vehicle. PO Boodoo did not observe Sgt. Vigilance adjusting § 87(2)(b)'s handcuffs at any point in time. PO Boodoo did not know if Sgt. Vigilance tightened § 87(2)(b)'s handcuffs at any point in time.

§ 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Robbie Boodoo threatened § 87(2)(b) with the use of force.

Whether PO Boodoo threatened to use force against § 87(2)(b) remains in dispute.

According to § 87(2)(b)'s sworn statement (Board Review 01), after Sgt. Vigilance tightened his handcuffs, § 87(2)(b) experienced so much pain that he began hitting his head against the rear window of the police vehicle. § 87(2)(b) did so to lose consciousness. § 87(2)(b) could not articulate how long or how many times he hit his head against the window. PO Boodoo then opened the passenger door and told § 87(2)(b) "Stop or I will make you stop." § 87(2)(b) did not recall how many times PO Boodoo stated such to him.

In PO Boodoo's statement to the CCRB (Board Review 06), PO Boodoo did not recall § 87(2)(b) intentionally striking his own head against any surface at any point in time. After placing § 87(2)(b) in the rear of the police vehicle, PO Boodoo and Sgt. Vigilance transported him to the 60th Precinct stationhouse and processed his arrest. PO Boodoo denied stating, "Stop or I'll make you stop," to § 87(2)(b). PO Boodoo denied threatening to use force against § 87(2)(b) and he denied witnessing any other officer do so.

Sgt. Vigilance provided a consistent statement with PO Boodoo (Board Review 05). Sgt. Vigilance did not recall PO Boodoo stating, "Stop or I'll make you stop," to § 87(2)(b). Sgt. Vigilance denied stating such to PO Boodoo himself.

Patrol Guide Procedure 221-01 regarding Force Guidelines (Board Review 09), states, "Force may be used when it is reasonable to ensure the safety of a member of the service, or a third person, or otherwise protect life...in all circumstances, any application or use of force must be reasonable under the circumstances."

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 10).
- Sgt. Vigilance has been a member of service for 21 years and has been a subject in 23 CCRB complaints and 45 allegations, 44 of which were not substantiated and one of which is pending investigation. § 87(2)(g)
- PO Boodoo has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, false imprisonment, assault, battery, malicious prosecution, deprivation of civil rights, and property damage and seeking \$1,000,000.00 as redress (Board Review 12). There is no 50H hearing scheduled.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 11).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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